Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them	)	
	)	
and	)	PR Docket No. 92-235
	)	
Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services	)	

To: The Commission

JOINT POOL CONSOLIDATION PROPOSAL OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION ALLIANCE OF MOTION PICTURE AND TELEVISION PRODUCERS NEWSPAPER ASSOCIATION OF AMERICA TELEPHONE MAINTENANCE FREQUENCY ADVISORY COMMITTEE

Date: November 20, 1995

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The Personal Communications Industry Association ("PCIA"),[1] the Industrial Telecommunications Association ("ITA"),[2] the

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[1]PCIA is an international trade association representing the interests of both commercial mobile radio service ("CMRS") and private mobile radio service ("PMRS") users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and for the 929 MHz paging frequencies.

[2] ITA, formerly the Special Industrial Radio Service Association, Inc. (SIRSA), is an association organized under the laws of the District of Columbia. ITA is the Commission's

Alliance of Motion Picture and Television Producers ("AMPTP"),[3] the Newspaper Association of America ("NAA")[4] and the Telephone

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certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 421-430 MHz and 800/900 MHz frequency pools. ITA also coordinates channels from the 800 MHz General Category pool for those entities: (a) eligible to become Industrial/Land Transportation licensees; (b) wishing to expand trunked systems; or (c) consolidating conventional systems into a trunked system. ITA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency pools.

ITA enjoys the support of a membership that includes more than 8,600 private land mobile radio communications licensees and the following trade associations:

Alliance of Motion Picture and Television Producers
American Mining Congress
Associated Builders & Contractors, Inc.
Florida Citrus Processors Association
Florida Fruit & Vegetable Association
National Aggregates Association
National Food Processors Association
National Propane Gas Association
National Ready-Mixed Concrete Association
National Utility Contractors Association
New England Fuel Institute
United States Telephone Association

[3]The Alliance of Motion Picture and Television Producers ("AMPTP") is a non-profit trade association of organizations engaged in the production of motion pictures and television programming. AMPTP represents in excess of 200 of the major and independent producers of motion pictures and television programs. AMPTP is the single industry-wide representative of the motion picture industry and is the Federal Communications Commission's certified frequency advisory committee for the Film and Video Production Radio Service.

[4] The Newspaper Association of America is a nonprofit organization representing the $44 billion newspaper industry and over 1,500 member newspapers in the United States and Canada. Most NAA members are daily newspapers that account for approximately 85 percent of U.S. daily circulation. Headquartered in Reston, VA, NAA focuses on five key strategic priorities that affect the newspaper industry collectively: marketing, public policy, diversity, industry development and newspaper operations. NAA is the Federal Communications Commission's certified frequency advisory committee for the Relay Press Radio Service.

Maintenance Frequency Advisory Committee ("TELFAC")[5] (hereinafter the "Joint Commenters") respectfully submit the attached proposal for consolidation of the Part 90 radio service pools in response to the direction of the Commission as outlined in the Report and Order in the above-captioned proceeding.[6]

Respectfully submitted,

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

By: Mark Golden

Mark J. Golden
Vice President, Regulatory
Personal Communications
Industry Association
1019 19th Street, N.W.
Suite 1100
Washington, D.C. 20036
(202) 467-4770

INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.

By: _____

Mark E. Crosby
President and CEO
Industrial Telecommunications
Association, Inc.
1110 N. Glebe Road
Suite 500
Arlington, VA 22201
(703) 528-5115

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[5]The Telephone Maintenance Frequency Advisory Committee ("TELFAC") is an unincorporated association representing all licensees in the Telephone Maintenance Radio Service. TELFAC is governed by a council of licensee representatives elected by members of the Telephone Maintenance Radio Service. The TELFAC Council is composed of representatives from Bell Communications Research, Ohio Bell Telephone Company, United States Telephone Association, Bell Atlantic - New Jersey, Inc., Rock Hill Telephone Company, MCI Telecommunications Corporation, and Pacific Bell. TELFAC is the Federal Communications Commission's certified frequency advisory committee for the Telephone Maintenance Radio Service.

[6] Report and Order and Further Notice of Proposed Rule Making (FCC 95-255), adopted June 15, 1995, summary published at 60 Fed. Reg. 37,152 (July 19, 1995).

ALLIANCE OF MOTION PICTURE AND TELEVISION PRODUCERS

By: J. Nicholas Counter III

J. Nicholas Counter III
President
Alliance of Motion Picture
and Television Producers
15503 Ventura Boulevard
Encino, CA 91436-3140
(818) 382-1710

NEWSPAPER ASSOCIATION OF AMERICA

By: John W. Iobst

John W. Iobst, Ph.D.
Technology Department
Newspaper Association of
America
The Newspaper Center
Sunrise Valley Drive
Reston, VA 22091-1412
(703) 648-1000

TELEPHONE MAINTENANCE FREQUENCY ADVISORY COMMITTEE

By: K. M. Falkenthal

K. M. Falkenthal
Chair
Telephone Maintenance
Frequency Advisory Committee
Bell Communications Research
444 Hoes Lane, RRC1A116
Piscataway, NJ 08854
(908) 699-7744

Date: November 20, 1995

S U M M A R Y

The Commission has already stated its decision to consolidate the radio services and the reasoning behind it in the Refarming *Report and Order*.

The Joint Commenters firmly believe that the creation of two pools — Public Service and Public Safety — will "ensure more efficient distribution of the additional channels created as a result of the transition to narrowband technology." The Joint Commenters also agree with the Commission that advances in technology and time have combined to make the present radio service system meaningless.

Consolidating the 13 Industrial and Land Transportation Services into a single "Public Service" pool is a policy action that will stand the test of time. Any other delineation between radio services would be merely arbitrary and would quickly become out of date much like the current 20-radio service system.

Frequency set-sides within the Public Service Pool will ensure that vital, safety-related communications will not be adversely affected by the radio service consolidation.

JOINT POOL CONSOLIDATION PROPOSAL
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Joint Pool Consolidation Plan

Personal Communications Industry Association ("PCIA"), the Industrial Telecommunications Association ("ITA"), the Alliance of Motion Picture and Television Producers ("AMPTP"), the Newspaper Association of America ("NAA"), and the Telephone Maintenance Frequency Advisory Committee ("TELFAC") recommend that the Commission consolidate the Part 90 service pools below 800 Mhz into two pools, one for Public Safety and another pool for the remaining Part 90 eligibles. As shown below, two pools will result in the allocation of spectrum in a fair and efficient manner, while at the same time protecting users with critical safety communications needs.

Essential Elements of the Consolidation Proposal

The Joint Commenters urge the Federal Communications Commission to consolidate the existing private land mobile radio services into two pools: (1) Public Service and (2) Public Safety.

Within the Public Service pool, there should be specific frequencies set aside for unique requirements:

control of slave locomotives
air transport utility ("ATU") communications
fixed point-to-multipoint railroad telemetry
oil spill cleanup
emergency response.

Service Pool Definitions

The **Public Service Pool** would consist of all of the existing private land mobile radio services encompassed within the current Part 90, exclusive of the six services designated as Public Safety and the Special Emergency Radio Service. The Public Service Pool would include the nine Industrial Radio Services (Power, Petroleum, Forest Products, Film and Video Production, Relay Press, Special Industrial, Business, Manufacturers and Telephone Maintenance), the four Land Transportation Radio Services (Motor Carrier, Railroad, Taxicab and Automobile Emergency), and the Radiolocation Service.

The **Public Safety Pool** would consist of the six existing Public Safety Radio Services (Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation and Emergency Medical) and the Special Emergency Radio Service.

Discussion of the Two Pool Proposal

The present regulatory system has served the land mobile radio industry well for decades. However, the need for 20 radio services has passed its useful life cycle.

Implementation of trunking technologies and advanced digital techniques requires the introduction of protected service areas.[1] With protected service areas, and the introduction of trunking technologies and digital techniques, it becomes impossible, as a practical matter, to distinguish between different types of communications. These advanced technologies also make the distinction irrelevant. The only considerations are sufficient co-channel and adjacent-channel separation. In such a licensing

[1] As discussed at greater length in the Comments of the Land Mobile Communications Council responding to the Further Notice of Proposed Rule Making in this proceeding filed this same date, the implementation of "protected service areas" forms a key element of the future direction envisioned for the private land mobile radio frequency bands below 800 MHz.

environment, the differentiation between a taxicab user and a licensee engaged in highway construction is unimportant. Coordination must provide sufficient geographic separation between the systems, but the amount of use or whether the mode is base/mobile- or repeater-oriented does not need to be considered when protected service areas are in place.

Under the LMCC's Transition Plan, incumbent licensees in the 150-174 MHz, 450-470 MHz and 470-512 MHz bands would have a significant head start in obtaining spectrum to assist in the introduction of new technologies.[2] The LMCC Transition Plan takes precautions to protect existing licensees of low-power offset operations. Given the safeguards in the LMCC Transition Plan, no one will be harmed. Existing community repeaters/private carriers in the spectrum below 512 MHz will have equal opportunity to gain access to the newly created channels.

Having reached the stage where it is both unnecessary and impossible to distinguish between different types of communications, there is no useful purpose to be served by retaining the existing radio service classifications.

The existing radio services are more a function of historical and technological developments than a reasoned and logical division

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[2] See Comments of the Land Mobile Communications Council, filed this same date in response to the FCC's Further Notice of Proposed Rule Making in this proceeding.

of the radio spectrum. To illustrate, in 1937 the FCC created the Police, Forestry, Mobile Press and Motion Picture Radio Services. In 1949, the FCC implemented the Industrial Radio Services and the Land Transportation Radio Services. In 1958, while reducing channel spacing in the 450-470 MHz band, the Commission established the Manufacturers Radio Service, Telephone Maintenance Radio Service and Business Radio Services.

At each juncture, the Commission attempted to carve out sufficient spectrum to accommodate the developing requirements of society. The current structure of twenty private land mobile services is the result of these sporadic efforts. There is, however, no compelling explanation for the fact that the railroad industry has its own service classification, with its unique block of assigned frequencies, while the airline industry was integrated into the Business Radio Service and forced to compete with a multitude of industrial entities, both large and small, for access to frequencies.

If the FCC's intent is to create a higher grade of service and, eventually, greater spectrum capacity, then the Commission must not segregate services into arbitrary and needless classifications. The danger of perpetuating arbitrary distinctions can be seen in the current composition of the Business Radio Service and the Special Industrial Radio Service. These two services represent a number of major industries: mining, airlines,

telephone maintenance, banking, heavy construction, agribusiness, and chemical supply. In effect, the Business Radio Service and Special Industrial Radio Service represent a consolidation of industries that occurred long ago.

The industries represented in the Business Radio Service and the Special Industrial Radio Service are critical to rebuilding and maintaining the national infrastructure: highways, airfields, bridges. These two services are also the most congested of the thirteen private land mobile services encompassed within the "Public Service" designation.[3] Based on the FCC's 1993 licensing statistics, the Business Radio Service is the most intensively used service, with more than 21,000 transmitters per frequency. The Special Industrial Radio Service ranked second, with more than 8,000 transmitters per frequency. Several of the radio services had ratios of less than 3,000 transmitters per frequency. Consolidation into two pools represents the only way for the Commission to rectify these gross disparities and ensure that similar disparities do not develop in the future.

The Land Mobile Communications Council is working closely with Telecommunications Industries Association (TIA) Working Group 8.8 to develop frequency engineering standards based on the same theory

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[3] The Commission has previously recognized that the Business Radio Service and the Special Industrial Radio Service are among the most heavily congested Part 90 services. See Notice of Inquiry, PR Docket No. 91-170, 6 FCC Rcd 4126 (1991), at para. 14.

and uniform algorithms. With the use of TIA's standards and proper management by the frequency management advisory committees, there will be no degradation in the quality of the radio service available to licensees included in the Public Service Pool.

Recognition of the Unique Requirements In Some Radio Services

The Joint Commenters recommend that the Commission keep the current "footnoted" frequencies for public service users. Of specific concern are the special use frequencies referenced above: slave locomotive control and fixed point-to-multipoint telemetry frequencies used by the railroads, ATU frequencies used by the airlines, oil spill cleanup frequencies used by petroleum companies and emergency response frequencies used by a variety of industries.

The Joint Commenters recognize users of such dedicated communications systems must have immediate access to a specified group of channels for the purposes indicated. Under the Joint Commenters' proposal, these special needs would be recognized and protected. By agreement of the frequency advisory committees and supported by corresponding rule provisions in Part 90 an appropriate number of frequencies would be set aside for these special requirements.

This two pool approach maximizes spectrum efficiencies. Since technology doesn't discriminate by the type of use, coordination

procedures can assign spectrum to the greatest number of users in the most efficient manner. At the same time, the unique operating requirements of, for example, long line (or ribbon) systems are recognized and protected, without discriminating against any type of user. Interservice sharing is eliminated, and coordinator competition can take place to the maximum extent possible.

There are a variety of public service systems that can be protected in this manner. Airline system communications, biomedical telemetry systems, slave locomotive systems, nuclear plants and telephone maintenance communications — each critical to safety of life and property — can not only continue under the two pool approach, but can actually have protections not currently provided by the Commission's Rules.

As discussed previously, the advent of digital and trunking technologies negates considerations of the differences in spectrum use by multiple licensees. The only considerations are sufficient co-channel- and adjacent-channel geographic separation. Further, to the extent that spectrum is shared, PCIA and ITA have shown for years that it is possible to coordinate disparate users, all eligible for the frequencies in the pool, and minimize interference. Users of Business and Special Industrial Radio spectrum, unfortunately the most crowded services, include oil companies, airlines, taxicab companies, utilities, manufacturers and delivery companies, among others.

Administrative and Management Issues

The establishment of two pools would benefit the FCC directly. It would simplify the frequency coordinating process and eliminate the need for special measures such as interservice sharing. The establishment of two service pools would introduce direct competition between the existing public service frequency advisory committees. Competition in the frequency coordination process would minimize the need for the FCC to use its valuable resources to monitor and evaluate the performance of the certified frequency coordinating committees.

Further, consolidation of the existing radio services into two pools will not directly undermine the membership basis of certified frequency coordinators. Ingrained loyalties to individual user associations will continue. Customers will continue to support those user associations that provide the best level and most useful range of services at reasonable prices.

Coordination Procedures Must Be Established

After consolidation, coordinators should not be required to review **every** application that gets filed, which has already been coordinated by another frequency advisory committee. The need to review every application in a consolidated pool would be devastating for most frequency advisory committees.

Procedures should be created to prevent applications from needing to be reviewed by more than one coordinator. Through the standardization of coordination procedures (which can recognize different coordination parameters for various types of users), the need for review by multiple coordinators is unnecessary. While this process does require the establishment of coordination procedures by the Commission and frequency advisory committees (any consolidation will require such procedures) – PCIA, ITA and APCO have already instituted similar notification procedures for their staffs, and the procedures do work.

The Commission must ensure that frequency coordinating committees need not be concerned with the work product of other coordinating committees in the same pool. Fortunately, the Commission's Rules already provide a remedy for this situation. Since coordinations are only recommendations, the Commission is ultimately responsible for the grant of the license. Objecting parties may oppose the grant of the application, pursuant to Section 1.41 of the Commission's Rules. A pattern of poor coordinations by a frequency advisory committee would be grounds for decertification of that committee.[4] While mutual coordination procedures such as those discussed above should minimize instances where objections are raised by other frequency advisory committees,

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[4]Report and Order, PR Docket No. 83-737, FCC 86-143, released April 13, 1986 at para. 127.

the Commission must remain vigilant in enforcing these rules when problems are brought to the Commission's attention.

Establishment of proper frequency management procedures, as discussed above, will "raise the water" of frequency recommendations to ensure that no frequency advisory committee is performing poorly. Once the procedures are established, there will be competition among representative organizations on a level playing field, and applicants will use the coordinator who gives the applicant the best value for its money, based upon the applicant's evaluation of the quality of the work performed, the speed of service and the cost of coordination.

Real-Time Coordination Exchange Is Vital To Consolidation

Consolidation of radio services is only feasible where there is real-time data exchange among frequency advisory committees. If real-time data exchange is not mandated, many of the problems that led to the creation of a single coordinator system in the 1980s will be revisited.

There must be real-time data exchange. Otherwise, in the absence through state-of-the-art electronic transfer mechanisms, neither the Commission, nor the applicants, nor the frequency advisory committees will be able to ensure that applications, once submitted, are not in conflict with other applications being

submitted at the same time. Therefore, all certified frequency coordinators must have the capability of electronically transmitting and receiving frequency notifications.

However, a national coordinators' database is neither possible nor desirable. There cannot be truly competitive coordination with a national database because the database is a frequency advisory committee's major asset. A number of coordinating committees have expended millions of dollars creating what each believes is a premier database tool. While it may be desirable from a business standpoint in some situations for multiple coordinators to use the same database, such decisions should be left to the marketplace.

The primary reason for establishing a national database is so that the various committees are coordinating using the same information. With regard to systems already licensed, the Commission's database must remain the sole authority to resolve disputes. However, with regard to pending coordinations, electronic transfer of all data through some form of electronic data exchange should be a requirement of all coordinating committees.[5] In this manner, all databases may remain current.

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[5]If EDI notification is required and standard coordination procedures adopted, the Joint Commenters believe that notification is sufficient and concurrence from other coordinating committees should not be necessary.

There is no compelling reason for, nor will the industry adhere to, a single universal application/licensing database. The coordinators' individual databases are designed to accommodate the unique marketing and management requirements of the different user associations. With inter-coordinator electronic notification, there will be no need for a common database. Utilizing a national database is not prudent, as it eliminates the ability of a frequency advisory committee to customize the information available, depending on the needs of the customers. For example, PCIA's database includes an extensive history function. Using this function, coordinators may make notes or comments about conversations with the applicant or reasons why a coordination was or was not performed. This information is vital in resolving disputes which may arise years after the system is licensed.

Designation Of Low-Power Channels

If the Commission adopts the two pool approach, coordinators may jointly decide how many frequencies are required for low-power offset operations (as well as how many frequencies are necessary for emergency response).

The Joint Commenters concur that the transition plan presented in the LMCC's Further Notice comments represents the best means by which the Commission may address the needs of current secondary low-power offset users. Therefore, consistent with LMCC's plan, it

is proposed that:

1. Licensees would have a specific period of time to declare whether they wish to convert to primary status;

2. If licensees do not declare their intent to convert to primary status, they will have to modify their licenses and modify their authorizations to designate the newly defined low-power pool frequencies;

3. Based on the declarations by licensees, the frequency coordinators would identify how many and what specific frequencies should be designated for low-power operations;

4. There should be a specific deadline established to govern cases in which the licensees of existing secondary, low-power systems choose not to convert to primary status. On this deadline, those low-power systems will be subject to having primary, full-power systems licensed on the same channel and on adjacent channels;

5. The Joint Commenters recommend that the Commission adopt the following dates for secondary conversion:

    (1) September 1, 1996: Deadline for low-power licensees to declare their intent to convert to primary status;

    (2) March 1, 1997: Date by which the frequency coordinators will have to: (a) ascertain how many of the current offset frequencies should be designated for primary operations; (b) identify which specific frequencies will be made available for primary operations; and (c) determine which frequencies will be designated for the low-power pool;

    (3) March 1, 1998: Date on which existing low-power, secondary systems will be subject to interference from full-power, primary-status systems. Licensees of secondary systems will be on notice that, as of this date, they will have to convert to designated low-power pool frequencies or they will be at risk of interference from systems licensed for full-power operations on a primary basis.

Conclusion

The Commission has already stated its decision to consolidate the radio services and the reasoning behind it in the Refarming *Report and Order*. The Joint Commenters firmly believe that the creation of two pools — Public Service and Public Safety — will "ensure more efficient distribution of the additional channels created as a result of the transition to narrowband technology." The Joint Commenters also agree with the Commission that advances in technology and time have combined to make the present radio service system meaningless.

Consolidating the 13 Industrial and Land Transportation Services into a single "Public Service" pool is a policy action that will stand the test of time. Any other delineation between radio services would be merely arbitrary and would quickly become out of date much like the current 20-radio service system.

Frequency set-sides within the Public Service Pool will ensure that vital, safety-related communications will not be adversely affected by the radio service consolidation.

The Joint Commenters appreciate the chance to advise the Commission on this issue, which so greatly affects our memberships and our services to private radio licensees.